

**Public Hearing: March 8, 2022**

TO: MEMBERS OF THE LABOR AND PUBLIC EMPLOYEES COMMITTEE  
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)  
DATE: MARCH 8, 2022

**RE: Labor And Public Employees Committee Public Hearing March 8, 2022**

Thank you for the opportunity to testify at this important Public Hearing on the Workers' Compensation bills that have been proposed by the Labor and Public Employees Committee. The positions presented are in my capacity as the Chair of the Connecticut Trial Lawyers Association (CTLA) Workers' Compensation Section.

**Senate Bill 321**

AN ACT EXPANDING WORKERS' COMPENSATION COVERAGE FOR POST-TRAUMATIC STRESS INJURIES TO ALL EMPLOYEES.

**CTLA Strongly Supports Senate Bill 321 as presented:**

CTLA supports the reinstatement of mental and emotional claims as compensable workers' compensation injuries. Public Act 19-17 was a seminal step in the right direction. Connecticut was joining a handful of states that have acknowledged firefighters and law enforcement officers suffer greater increase of stand-alone mental and emotional injuries. **Bill 321** appropriately expands this group to include all employees.

CTLA prefers this broader approach of finally offering for all workers a redress from the draconian 1993 reforms which carved out of the Worker's Compensation Act stand-alone mental and emotional claims.

One rarely thinks of this inequity, but it is a sad reality that Connecticut has its share of unintended victims. We have the bystanders of workplace shootings at the Lottery office, the Hartford Dispensary, and Sandy Hook School several years ago. Also, we know statistically higher incidents of emotional and mental stress are found with correction officers, EMT workers, and dispatchers who never know if they have to deal with death and mayhem. And in all these cases, under current law, our Workers Compensation Act reflects that these injuries do not warrant any coverage.

Without the assistance of workers compensation, this unprovided group of injured workers (and their families) must fall back on their own insurance with high deductibles, missed time from work, which unfortunately leads to an erosion of the employer and employee relationship. For this group, their need for constant professional treatment is so dire that without it, they just drift a way into obscurity: despondent, sullen, a perceived burden to their family, so much so that in rare cases, we now get to add suicide to the list of possible outcomes. All the while, these employees are expected to return to that environment, day in and day out, and mask these psychological internal battles to perform their work duties.

Employers and insurers will claim costs associated with addressing emotional and mental claims, and while this is true the alternative is financially worse. As we learned from the uncompleted 2020 Task Force on Undue Delay, when work related claims are not provided for within the Worker's Compensation system, the costs get shifted to other areas thereby imposing huge financial burdens on the already limited entitlements and benefits provided by the state of Connecticut.

The global pandemic has greatly assisted in minimizing the taboo surrounding mental health and the need for psychological assistance. People struggling with depression, anxiety, and post-traumatic stress disorder are now openly encouraged to get professional care and it's our position that employers should also promote emotional health and stability.

CTLA believes enough safeguards exist within the system so abuse of the expansion of stand-alone mental and emotional claims will not create a runaway freight train as industry may claim.

### **House Bill 5354**

AN ACT CONCERNING UNDUE DELAYS IN WORKERS' COMPENSATION.

### **CTLA Strongly Opposes House Bill 5354**

By enacting House Bill 5354, the legislature would be taking a giant step backwards from their aim to assist injured workers. This proposal, which would lead to additional delays in workers' compensation benefits, is not only detrimental to the injured claimant and their attorneys, but also to the private health insurance industry, self-funded policies, companies with HSA accounts, and uninsured individuals alike.

As it stands, respondents' insurance carriers must commence payment on either medical bills or for loss of wages to the claimant *or* issue a Form 43 denying the claim within **twenty-eight days**. If they fail to do so, the respondents' carriers will be precluded from contesting the causation or extent of a claimant's injuries. The legislature purposefully invoked a harsh penalty for a respondent employer or insurance company to delay making payments to the claimant due to the overarching humanitarian nature of the Workers' Compensation Act. The legislature wanted these claims reviewed, processed, and payable as soon as possible.

Even now, twenty-eight days is problematic for some claimants. Imagine being out of work, with no source of income, recovering from a huge work accident and being unable to provide for your family for at least twenty-eight days. Imagine being in dire need of a surgery; however, you must wait twenty-eight days to get workers' compensation insurance information. Keep in mind- the mere issuing of the Form 43 does *not* mean benefits begin- it means that the claimant or their attorney merely has a point of contact to request the same. In the best-case scenario, the claim is assigned to an aggressively responsive and big-hearted adjuster who accepts the claim, authorizes retroactive payments for the past four weeks and authorizes all reasonable or necessary medical treatment. We all know how unlikely that is.

Supporters of this bill will argue that the claimant can proceed through their own independent health insurance; however, that's a luxury not afforded to most. That would disproportionately burden and discriminate against those who are not economically capable of purchasing private health insurance or who cannot access the insurance exchange.

Additionally, even if a claimant has insurance, the increased prevalence of HSA plans and high deductible policies would mean the claimant would essentially be paying out of pocket for these high medical costs. They also would not be privy to paying reduced rates pursuant to the workers' compensation fee schedule. If they are lucky enough to have suitable insurance, it's merely an effort to cost shift onto the insurance companies for payments that will never be refunded.

Supporters will argue that the respondents need time to do their due diligence, but the filing of the Form 43 does not serve to entirely deny the claim. Respondents **can** issue Form 43s and later accept the case so therefore, they would not be disenfranchised or prejudiced by doing so. In the event the respondent employer delays in providing the insurance company with the Notice of Claim (Form 30C), then the insurance carrier can issue a reservation of rights and would have a remedy against the penalty of preclusion.

The insurance companies have endless remedies. The injured employees may only have one- and that's getting access to the workers' compensation benefits as fast as possible.

To push the deadline for respondents to acknowledge workers' compensation claim to **forty-five days** would be detrimental and it cannot happen. We strongly, strongly oppose this bill.

### **Senate Bill 313**

AN ACT CONCERNING ADOPTION OF THE RECOMMENDATIONS OF THE TASK FORCE STUDY CANCER RELIEF BENEFITS FOR FIREFIGHTERS.

#### **The CTLA Strongly Supports Senate Bill 313 as presented:**

Firefighters, by their very job description, enter fire and smoke-infested homes as all others run out. They subject themselves to smoke inhalation, burns, hot temperatures and scorching debris- on purpose. These men and women must pass stringent physical examinations and undergo psychological and academic tests to wear the badge of honor that comes with being a firefighter.

Unfortunately, repeated exposure to these high-risk situations is part of the job and despite the use of state of the art safety equipment and mechanisms to mitigate these risks, injuries and exposure still happen. Smoke inhalation and carbon dioxide exposure are statistically more common than any other occupation.

If a firefighter is able to demonstrate that they passed those strict evaluations; that they were cancer-free and in peak performance shape prior to enlisting; that they properly utilized the protective safety gear throughout their career; have avoided other contributing factors to cancer (i.e. smoking); and after a long-period of employment have suddenly been diagnosed with cancer, the very nature of their job suggests it would be causally related to their career.

We strongly support the Senate Bill 313 which is also statistically supported by the data gathered by the Task Force to Study Cancer Relief Benefits for Firefighters. In this instance, the data matches common sense whereas firefighters are often exposed to dangerous chemicals which can cause cancer, and as such coverage should be available for them through the Workers' Compensation Act.

I thank you again for your time, and please feel free to contact me if you have any additional questions or requests.

Sincerely,

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